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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,713	07/21/2003	Pascal Druzgala	ARYX-117XC1	7573
23557	7590	12/14/2004	EXAMINER	
SALIWANCHIK LLOYD & SALIWANCHIK A PROFESSIONAL ASSOCIATION PO BOX 142950 GAINESVILLE, FL 32614-2950			AULAKH, CHARANJIT	
			ART UNIT	PAPER NUMBER
			1625	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/624,713	Applicant(s) DRUZGALA, PASCAL	
	Examiner Charanjit S. Aulakh	Art Unit 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6, 7 and 9-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. According to paper filed on Oct. 12, 2004, the applicants have canceled claims 2, 5 and 8 and furthermore, have amended claims 1, 3, 4, 6, 7 and 9. The applicants have also submitted a new oath.
2. Claims 1, 3, 4, 6, 7 and 9-11 are now pending in the application.

Response to Arguments

3. Applicant's arguments filed on Oct. 12, 2004 have been fully considered but they are not persuasive regarding prior art rejection over Katsushima's reference. The applicants have amended claims to overcome enablement, indefiniteness and prior art rejections over Rzeszotarski's reference and Kufner-Muhl's reference. In regard to Katsushima's reference, the examiner does not agree with the applicants arguments that this reference does not disclose 1,3 dipropylxanthines substituted at 8th position with a cycloalkyl substituted with -COOR¹. As clearly stated in the last office action, the compound no. 5 (see tables I and II on page 1907) disclosed by Katsushima clearly anticipates the instant claims.

Conclusion

4. Rejections under 35 U.S.C. 112, first paragraph as well as second paragraph are now withdrawn.
5. Rejections under 35 U.S.C. 102(b) over Rzeszotarski's reference and Kufner-Muhl's reference are now withdrawn.
6. Rejection of claims 1, 3, 4, 6, 7 and 9-11 under 35 U.S.C. 102(b) over Katsushima's reference is maintained for the reasons of record.

NEW GROUNDS OF REJECTION

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 3, 6, 7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3, 6 and 9 depend upon claims 1, 4 and 7, respectively and define various structures substituted with COOR1 groups. However, three compounds (compounds 6-8) in the middle lack antecedent basis since cycloalkyl group is not attached directly to the xanthine ring and furthermore, -COOR1 group is not attached directly to the cycloalkyl group as required in claims 1, 4 and 7.

In claim 7, the term --divresis---is indefinite since its meaning is not clear. Should it be --diuresis---?

In claim 7, it is not clear why an individual is in need of diuresis?. The applicants are suggested to rewrite the claim as --- A method of treating congestive heart failure in an individual ----- and delete ----for inhibiting the A1Ado receptor in an individual in need of diuresis----.

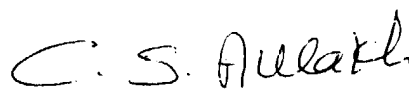
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charanjit S. Aulakh whose telephone number is (571)272-0678. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on (571)272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Charanjit S. Aulakh
Primary Examiner
Art Unit 1625